

Exhibit 2

Part (1 of 2)

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EVEREST REINSURANCE COMPANY, A/S/O :
FRITZ HOKEL and SYM REALTY,
Plaintiffs, :
- against - : Docket No.
CV 11 3427

COVA CONCRETE CORP., SHARON ENGINEERING, :
P.C., ORANGE COUNTY SUPERIOR CONCRETE,
INC., SIMON DUSHINSKY, THE RABSKY GROUP, :
LLC, HSD CONSTRUCTION, LLC, THE GOLD
DEVELOPMENT & MANAGEMENT, LLC, OSCAR P. :
WALTERS and DEMERARA ENGINEERING, PLLC,

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September 12, 2012
10:45 a.m.

CONTINUED ORAL DEPOSITION of ISAAC RABINOWITZ, a witness on behalf of HSD Construction, LLC, herein, taken by the Defendants, pursuant to Notice, held at the above-captioned time and place, before Hanna Roth, Shorthand Reporter and Notary Public of the State of New York.

Veritext/NJ Reporting Company

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By: JONATHAN A. JUDD, ESQ.

I N D E X
TESTIMONY

WITNESS	EXAMINED BY	PAGE	LINE
Isaac Rabinowitz	Mr. Polishook	142	6
	Mr. Kuller	193	9

RABINOWITZ EXHIBITS FOR IDENTIFICATION

NO.	DESCRIPTION	PAGE	LINE
7	Large scale set of plans for project	170	9
7A	Smaller scale set of plans for project	170	10
8	AIA Document A-201-1997	234	20
	(Exhibits retained by counsel.)		

REQUEST FOR PRODUCTION OF DOCUMENTS

DESCRIPTION	PAGE	LINE
HSD job file for project	151	4
Drawings, specifications and plans provided by Sharon not previously produced	192	15
Plans provided by Gold	223	23

F E D E R A L S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED by and
between the attorneys for the respective parties
hereto that filing and sealing be one and the same
are hereby waived.

IT IS FURTHER STIPULATED AND AGREED that
all objections except as to the form of the question,
shall be reserved to the time of the trial.

IT IS FURTHER STIPULATED AND AGREED that
the within examination may be signed and sworn to
before any notary public with the same force and
effect as though signed and sworn to before this
Court.

1
2 N A O M I J O N E S, a Hebrew interpreter, solemnly
3 swore to translate the following questions from
4 English to Hebrew and the answers from Hebrew to
5 English.

6 I S A A C R A B I N O W I T Z, called as a witness,
7 having been duly affirmed through an interpreter by a
8 Notary Public of the State of New York, was examined
9 and testified as follows:

10 CONTINUED EXAMINATION BY MR. POLISHOOK:

11 Q. Good morning, Mr. Rabinowitz. My name is
12 Eric Polishook from Morgan Melhuish Abrutyn. We met
13 when you were last deposed on August 8th or 9th. I
14 represent Sharon Engineering. I am going to ask you
15 some more questions today. It's the same
16 instructions as the last time.

17 I will ask a question and then I will
18 give you time to answer. Just answer my questions.
19 I understand also you may understand some English,
20 but like the last time, just listen to the
21 interpreter's Hebrew and answer in Hebrew. If you
22 don't understand a question, please let me know so we
23 can make this easier. If your attorney says the word
24 "objection" or someone says the word "objection,"
25 wait and your attorney will tell you whether to

1 Isaac Rabinowitz

2 answer the question or not. Do you have any
3 questions?

4 A. No.

5 Q. Just to confirm, in the past 24 hours,
6 you haven't had any alcoholic drink or taken any
7 recreational or prescription drugs that would affect
8 your ability to testify or remember events from 2009.
9 Correct?

10 A. No.

11 Q. Following the incident on June 2nd, 2009,
12 did you see any Styrofoam in the area of the wall?

13 A. I think so.

14 Q. Did you take any photographs of the area
15 where the incident occurred, after the accident?

16 A. No.

17 MR. JUDD: Excuse me, just off the
18 record.

19 (Discussion held off the record.)

20 Q. Where did you see the Styrofoam after the
21 incident?

22 A. The place that there was the
23 construction. The place that the accident occurred.
24 You could see that it happened there. The Styrofoam
25 was between the wall and the cement.

1 Isaac Rabinowitz

2 Q. Which wall, the wall that was being
3 built, the wall of the adjacent building or something
4 else?

5 A. Between the new wall and what was built,
6 the cement of the new wall that was built.

7 MR. JUDD: Excuse me just one second. I
8 just want to tell my client to please wait until
9 the question is over before he starts to
10 respond. Okay? Thank you.

11 THE INTERPRETER: I am translating the
12 best I could.

13 Q. Can you describe the Styrofoam; meaning,
14 what color was it, how much of it was there when you
15 saw it after the incident?

16 A. I don't remember.

17 Q. Did you actually touch it?

18 A. No.

19 Q. How do you know that it was Styrofoam?

20 A. I could see. No?

21 MR. JUDD: Off the record again.

22 (Discussion held off the record.)

23 Q. Did you ever instruct Orange County to
24 use forms made of Styrofoam in pouring the concrete?

25 MR. KULLER: Objection.

1 Isaac Rabinowitz

2 THE INTERPRETER: I need the question
3 repeated.

4 (The record was read by the reporter.)

5 A. I never gave any instructions how to
6 pour. How to pour, is it necessary? They should
7 know by themselves, alone.

8 Q. Orange County should know by themselves?

9 A. Yes.

10 Q. That includes the use of forms?

11 A. Clearly.

12 Q. Did Ronan Sharon ever tell you to tell
13 Orange County to use Styrofoam forms?

14 MR. JUDD: Objection to form.

15 A. He didn't give such an instruction.

16 Q. Did you ever witness personally Ronan
17 Sharon tell anyone from Orange County to use
18 Styrofoam forms?

19 A. I don't know.

20 Q. Did you ever review any writings for this
21 project regarding the use of Styrofoam forms before
22 pouring concrete?

23 MR. KULLER: Objection to form.

24 MR. JUDD: Object to form.

25 A. I would like to tell him not off the

1 Isaac Rabinowitz
2 record. There is no such thing as forms of
3 Styrofoam.

4 MR. KULLER: You would know.

5 MR. JUDD: Would you read that back.
6 (The record was read by the reporter.)

7 A. There wasn't such a thing.

8 Q. Did you ever prepare any writings
9 regarding the use of Styrofoam forms on a project?

10 A. No.

11 Q. You testified here at your last
12 deposition regarding forms that were used on site. I
13 just have some followup questions on that.

14 Who ordered -- withdrawn. This may have
15 been asked the last time, but I don't recall the
16 answer.

17 Were the forms prefabricated or were they
18 put together onsite or something else?

19 A. Onsite.

20 Q. Who ordered the materials to be used to
21 construct the forms?

22 A. The one who does the concrete. The
23 person who takes care of the concrete prepares the
24 forms.

25 Q. What I want to know is not who prepared

1 Isaac Rabinowitz

2 them, and I will get to that in a second. Who
3 ordered the materials?

4 A. He orders them, he prepares them and he
5 makes them, brings them.

6 MR. JUDD: Who is he?

7 THE WITNESS: The person from the
8 concrete, the cement.

9 Q. In this case, was that Orange County
10 Superior Concrete?

11 A. Yes.

12 Q. I know I just asked you who ordered the
13 materials. Who determined what materials would be
14 ordered?

15 A. I don't understand.

16 Q. Okay. I know you just testified that
17 Orange County ordered the materials to be used for
18 the forms. Did Orange County determine what
19 materials had to be ordered?

20 A. Yes.

21 Q. And then once the materials arrived on
22 the site, Orange County put together the forms?

23 A. Yes.

24 Q. What were the forms made of to assist in
25 the pouring of concrete at this job site?

1 Isaac Rabinowitz

2 MR. JUDD: In any particular location, at
3 this job site or any particular floor at this
4 job site?

5 MR. POLISHOOK: I am going to ask in
6 general at the job site.

7 MR. JUDD: You're assuming it was the
8 same everywhere on the site.

9 MR. POLISHOOK: Well, his testimony last
10 time was -- I need to see -- I just want to ask
11 that question.

12 MR. JUDD: If you understand the
13 question, then you can answer it.

14 THE WITNESS: I don't understand the
15 question.

16 MR. POLISHOOK: I know he testified and I
17 don't like the interpreter's testimony on the
18 record. I'd like his words, his testimony to
19 speak for itself. I want it to be accurate.

20 Q. Do you know what the forms were made of
21 that Orange County used at the site at 50 North First
22 Street?

23 A. It's a special form that is used for
24 pouring cement. It's a special form that's used for
25 pouring cement.

1 Isaac Rabinowitz

2 Q. What was that form made of?

3 A. It has parts of metal, wood and metal.

4 Q. Did Orange County submit invoices to HSD
5 for payment for the forms?

6 A. When he left, he asked for money, so yes.

7 Q. Were any invoices submitted in writing
8 specifically just for the materials and for the work
9 on the forms?

10 A. No.

11 Q. Did Orange County submit any invoices for
12 any work on the site?

13 A. For preparation I don't pay anything.
14 The only thing I do pay is after he does the work,
15 after he prepares the cement.

16 Q. So is it fair to say that after Orange
17 County did the work, they asked for one set of
18 payment and you provided one set of payment?

19 MR. KULLER: Objection.

20 MR. JUDD: Object to form. Do you
21 understand the question?

22 A. After the entire thing -- he just started
23 to work and the accident happened. He only started.
24 He didn't even begin to do the work for which we
25 would have the invoice. The invoice was not ready

1 Isaac Rabinowitz

2 yet because there was more work to be done before
3 that invoice should be submitted and then the
4 incident happened. Then the bank immediately stopped
5 payment and the lien was presented.

6 MR. JUDD: Please read back that answer.

7 (The record was read by the reporter.)

8 Q. Does HSD maintain a file with all
9 invoices and requisitions and payments for this
10 project?

11 A. There was only one invoice when he asked
12 for money.

13 Q. What about for any other work?

14 A. There was a contract. He sent the
15 invoice and then afterwards we tried to make an
16 agreement between us to reduce the lien, but the bank
17 didn't give that. Then they sold it and he got the
18 money from the new guys.

19 Q. What I want to know, not just for Orange
20 County but for any contractor or professional that
21 worked on the project, does HSD still have copies of
22 any requisitions or invoices or checks for any
23 contractor or any work on site?

24 MR. JUDD: I object to the form, but if
25 he can answer it, go ahead.

1 Isaac Rabinowitz

2 A. There used to be. At the moment, I don't
3 know where.

4 MR. POLISHOOK: I will just request, and
5 I will follow up in writing, for the payment
6 file. I make a followup request for any kind of
7 job file that HSD has on the project.

8 MR. JUDD: Please put all requests in
9 writing and we will take them under advisement.
10 Off the record.

11 (Discussion held off the record.)

12 MR. KULLER: We made a request in writing
13 for the entire job file that was maintained by
14 HSD, Gold and the Rabsky Group with respect to
15 this construction project. Counsel for HSD,
16 Gold and the Rabsky Group objected to providing
17 that job file. They also represent Dushinsky.

18 It's our position in this case that to
19 the extent that there is a job file maintained
20 by either The Gold Development & Management or
21 the Rabsky Group or HSD Construction, that we
22 would certainly be entitled to review that job
23 file.

24 We are going to follow up again to ask
25 for a job file for which we will make the

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Isaac Rabinowitz

appropriate application to the Court and we will reserve our right to continue the deposition to the extent necessary based on production of any documents subsequent to today.

MR. JUDD: And we, of course, stand by the objections that we made to the demand.

MR. POLISHOOK: I am going to move on. I'm going to show the witness what was marked as Rabinowitz 3 at Mr. Rabinowitz' first deposition, dated August 9, 2012. It's a two-page document. The first page says Sharon Engineering Fax Transmission, dated May 11. The second page is on graph paper with the Sharon Engineering insignia on the top.

I'm going to show this to the witness and I'm going to ask him to take a look at it. I don't have any questions yet. Just making sure. He doesn't need to answer, unless I ask a question.

(Witness perusing document.)

Q. Mr. Rabinowitz, have you ever seen what was marked as Rabinowitz 3, or a copy of it, before today?

MR. JUDD: Only if you remember.

1 Isaac Rabinowitz

2 MR. POLISHOOK: Everything is only if he
3 remembers.

4 A. I don't remember.

5 Q. Do you know who Chani is that's referred
6 to on the first page?

7 A. No.

8 Q. Back in May 2009, were you employed or
9 were you a member or officer of the Rabsky Group?

10 A. Yes.

11 Q. And did you receive faxes that were sent
12 to the Rabsky Group?

13 A. The office receives.

14 Q. Do you know who prepared Rabinowitz 3;
15 meaning, any of the writings? Let me withdraw the
16 question.

17 MR. JUDD: Do you want to ask if he
18 recognizes the writing?

19 MR. POLISHOOK: I'm just going to the
20 first page of Rabinowitz 3.

21 Q. Do you recognize the handwriting? I'm
22 not asking if you understand what it says. I
23 understood your testimony about reading English. I
24 am wondering if you recognize the handwriting.

25 A. I don't know.

1 Isaac Rabinowitz

2 Q. The second page of Rabinowitz 3, do you
3 recognize any of the handwriting?

4 A. No.

5 Q. If you need to take a call, I would
6 rather you take the call and let's take a break. We
7 want to get your full attention. Unless a question
8 is pending, if you need a break at any time for a
9 personal matter, I don't mind. We can take a break.

10 A. Okay.

11 MR. JUDD: Off the record.

12 (Discussion held off the record.)

13 MR. POLISHOOK: If he needs to do
14 anything, I don't have a problem with it. I
15 just want him to pay attention to my questions.

16 MR. JUDD: I told him before if he needs
17 to break, we can do that.

18 Q. If you would receive a fax in your
19 business capacity that had English writing on it back
20 in 2009, would you have had someone assist you in
21 translating it?

22 A. Yes.

23 Q. Who would have assisted you in
24 translating it?

25 A. Generally, Dushinsky.

1 Isaac Rabinowitz

2 Q. Do you recall ever discussing the
3 contents of Rabinowitz 3 with Mr. Sharon?

4 A. I don't know what is written in it.

5 Q. That's because you can't read English?

6 A. Yes.

7 Q. Did you ever ask Mr. Sharon to translate
8 this document?

9 A. No.

10 Q. Do you recall ever asking Mr. Dushinsky
11 to translate this document for you?

12 A. No.

13 Q. And just referring to the second page of
14 Rabinowitz 3, you don't know what that says, right?

15 A. No.

16 Q. I'm going to show you what was marked --
17 leave this document here, I may go back to it.

18 I am going to show what was marked
19 Rabinowitz 4, dated 8/9/2012. You can take a look at
20 that.

21 MR. JUDD: Off the record.

22 (Discussion held off the record.)

23 Q. You can take a look at this and just look
24 up when you're done.

25 A. I see what it is. What is it that you

1 Isaac Rabinowitz

2 would like to ask?

3 Q. I'm going to ask some questions. Until I
4 ask a question, you don't need to answer. If I don't
5 ask a question, you can just sit there.

6 MR. JUDD: Only answer what he is asking
7 you.

8 Q. Have you ever seen the document marked as
9 Rabinowitz 4, or a copy of it, before today?

10 A. I don't remember.

11 Q. There is some additional handwriting
12 that's on Rabinowitz 4 that was not on the second
13 page of Rabinowitz 3. Do you recognize any of this
14 additional handwriting; meaning, do you know whose
15 handwriting this is?

16 A. No.

17 Q. And I take it because you don't read
18 English that you don't understand what it says.

19 MR. JUDD: Object to form.

20 Q. You can answer.

21 A. No.

22 Q. Well, that's a separate question. I hope
23 it won't be objected to.

24 Do you understand what any of the writing
25 on Rabinowitz 4 says?

1 Isaac Rabinowitz

2 A. I can explain what is my understanding as
3 to why this form was created.

4 Q. I will show you. Going back to
5 Rabinowitz 3, do you understand any of the writing on
6 the second page of Rabinowitz 3?

7 A. I don't understand because I see numbers.
8 Numbers I do know.

9 Q. You understand numbers but not the
10 letters?

11 A. Numbers I know.

12 Q. Do you know what the numbers mean on
13 Rabinowitz 3?

14 A. As principle, I understand. I don't
15 understand every detail. As a principle of this, I
16 understand what is meant here.

17 Q. What's your understanding of what was
18 meant on Rabinowitz 3?

19 A. I understand that he means which steel
20 rebar to use when you pour the concrete.

21 Q. Looking at Rabinowitz 3, do you
22 understand it to refer to anything besides which
23 rebar to use?

24 A. No.

25 Q. Does Rabinowitz 3 specify what type of

1 Isaac Rabinowitz

2 forms to use in the pouring of concrete?.

3 A. I don't know.

4 MR. JUDD: I need to hear that again.

5 (The record was read by the reporter.)

6 MR. JUDD: Offer the record.

7 (Discussion held off the record.)

8 Q. Going back to Rabinowitz 3, do you see
9 anywhere where it provides instructions for the type
10 of forms to use in pouring concrete?

11 MR. JUDD: Asked and answered.

12 A. I said before, I don't know.

13 MR. JUDD: Right. He said that already,
14 that he didn't know.

15 MR. POLISHOOK: I asked it differently.

16 MR. JUDD: You asked which forms to use.

17 MR. POLISHOOK: It's fine. His answer is
18 what his answer is.

19 Q. Look at Rabinowitz 4. In your opinion,
20 does that provide any details, besides the use of
21 rebar?

22 A. I don't know.

23 Q. In your opinion or from your reading of
24 this, does Rabinowitz 4 provide any details regarding
25 the use of the type of concrete forms? I mean the

1 Isaac Rabinowitz

2 forms for concrete pouring.

3 A. I don't know.

4 Q. I'm going to ask the question again
5 because I misspoke.

6 In your opinion, from your reading, does
7 Rabinowitz 4 provide any details regarding the type
8 of forms to use in the pouring of concrete?

9 A. You asked me again and again. I said I
10 don't read and I don't know.

11 Q. Prior to the incident, did you ever
12 discuss with Mr. Sharon the use of the type of forms
13 for the pouring of concrete?

14 A. No.

15 MR. JUDD: Read that back.

16 (The record was read by the reporter.)

17 Q. How did Orange County know what materials
18 to order for the forms?

19 MR. JUDD: I object to the question
20 insofar as it calls for him to know what Orange
21 County thought. But if you can answer it, go
22 ahead.

23 A. I don't know what to answer.

24 MR. JUDD: Do you understand the
25 question?

1 Isaac Rabinowitz

2 THE WITNESS: I understand the thing, but
3 as I said before, everything, all the things
4 involving how to do it or what to do is him, not
5 me.

6 Q. When you say "him," you mean Orange
7 County, the concrete contractor?

8 A. Yes.

9 Q. Did you ever discuss the type of forms or
10 the materials with anyone from Orange County before
11 the incident?

12 A. We spoke about the work and what needs to
13 be done and they decide themselves.

14 Q. Who did you speak with at Orange County,
15 by name?

16 A. Mr. Falkowitz, Yoel.

17 MS. NOREK-HATCH: Can we have a spelling
18 of that? I'm looking at the prior transcript.
19 I think it's incorrect.

20 MR. POLISHOOK: Let's have Brett give it
21 to us.

22 MR. KULLER: I believe it's
23 F-A-L-K-O-W-I-T-Z, first name J-O-E-L.

24 Q. Did you ever discuss forms with
25 Mr. Falkowitz's father, Martin?

1 Isaac Rabinowitz

2 A. No. The first time I ever saw him was
3 here, when he was at the last deposition.

4 Q. Okay. Thanks. Did you witness Orange
5 County putting together the forms on site?

6 A. Yes.

7 Q. These were made of metal and wood?

8 A. Yes.

9 Q. Did you witness the use of any forms made
10 of Styrofoam prior to the incident?

11 A. No.

12 Q. Did you make any complaints to Orange
13 County regarding the materials they were using or how
14 they were constructing the forms prior to the
15 incident?

16 A. No.

17 Q. Did you make any complaints to Mr. Sharon
18 about the materials that were to be used for the
19 forms or how they were to be constructed prior to the
20 incident?

21 A. No.

22 MR. JUDD: Off the record.

23 .(Discussion held off the record.)

24 Q. Just a couple more questions regarding
25 forms.

1 Isaac Rabinowitz

2 Did anyone ever complain to you about the
3 materials that were used for the forms or how they
4 were being constructed prior to the incident?

5 A. No.

6 Q. Did you ever prepare any writings
7 complaining about the forms prior to the incident?

8 MR. JUDD: Object to form.

9 A. No.

10 Q. Looking at Rabinowitz 3, do you know the
11 circumstances as to how this document was created?

12 MR. JUDD: Object to form, but he can
13 answer.

14 A. No.

15 Q. Do you know whether you ever received a
16 copy of Rabinowitz 3 faxed to you at the Rabsky
17 Group?

18 A. I don't remember.

19 Q. Look at Rabinowitz 4. Do you know the
20 circumstances under which this document was created?

21 MR. JUDD: Object to form.

22 A. No.

23 Q. I think it was asked. I just want to be
24 clear.

25 On Rabinowitz 4, there is some writing

1 Isaac Rabinowitz

2 that was not on Rabinowitz 3. Do you know whose
3 handwriting that is?

4 A. No.

5 Q. Did you ever speak to Ronan Sharon or
6 anyone from Sharon Engineering about the use of rebar
7 at this project?

8 MR. JUDD: I am just going to ask you to
9 please limit the time of that question.

10 MR. POLISHOOK: Let me withdraw the
11 question. Good idea. Thanks.

12 Q. Prior to the incident, did you ever
13 discuss the use of rebar with Ronan Sharon or anyone
14 from Sharon Engineering?

15 A. I accepted him as an engineer and we
16 discussed what needs to be done. He was taking over
17 whatever needs to be done regarding the concrete and
18 everything.

19 MR. JUDD: Objection. If you can repeat
20 the question or read it back.

21 Q. I just have very specific questions and
22 I'm not going to cut you off or anything you have to
23 say, but I do need you to listen to the question and
24 answer my questions.

25 MR. POLISHOOK: I move to strike that

1 Isaac Rabinowitz

2 answer as nonresponsive. Counsel objected to
3 form.

4 MR. JUDD: That's right. Objection.

5 MR. POLISHOOK: The thing I said after,
6 where I gave a little incentive, I'm not going
7 to --

8 Q. I'm going to let you say what you need to
9 say, Mr. Rabinowitz. It's your deposition. But I
10 ask that you listen to the question and just answer
11 my question and I am going to want you to answer that
12 question over objection.

13 MR. JUDD: I just want to ask you,
14 Mr. Polishook, if you could limit the question
15 about the use of rebar to a certain portion of
16 the building or certain time period.

17 MR. POLISHOOK: Okay. Well, I'm going
18 to -- I thought I did that. Maybe I never asked
19 that question. I'm going to withdraw the
20 question. Let me ask a new question and have
21 the witness listen to it.

22 Q. Did you ever discuss the use of rebar in
23 conjunction with the wall adjacent to 48 North First
24 Street with Mr. Sharon prior to the incident?

25 A. Yes.

1 Isaac Rabinowitz

2 Q. When did you discuss that with Ronan?

3 A. When I took him as an engineer.

4 Q. Do you know what date or dates the
5 conversation or conversations were?

6 A. I don't know. I don't remember.

7 Q. What were the sum and substance of the
8 communication or the communications; meaning, what
9 did Ronan say what did you say?

10 A. We spoke about what will be the best
11 thing to be done here and he said concrete wall, and
12 then the decision was made to do that.

13 MR. POLISHOOK: I'm going to move to
14 strike that answer as nonresponsive.

15 Q. I'm asking specifically whether you and
16 Ronan had any conversations regarding rebar and what
17 the sum and substance of those communications were,
18 just specifically about rebar.

19 A. We didn't speak specifically about rebar.
20 We spoke in general terms and then he makes the plan
21 and then we spoke about the plan.

22 Q. Besides Rabinowitz 3 and Rabinowitz 4,
23 are you aware of any other pre-accident writings
24 regarding the use and specification for rebar for the
25 wall adjacent to 48 North First Street?

1 Isaac Rabinowitz

2 A. It's not known to me.

3 Q. Did you witness -- withdrawn.

4 Prior to the incident, did you witness
5 any rebar at the project in the vicinity of the area
6 of the wall adjacent to 48 North First Street?

7 MR. JUDD: Object to the form, but go
8 ahead.

9 A. Inside the wall or next to the wall?

10 Q. Well --

11 A. What do you want to know? Inside the
12 forms or outside?

13 Q. Let me back up with a question. I
14 withdraw the question.

15 I don't know if the question was asked
16 the first time. Are you an engineer?

17 A. No.

18 Q. What is your lay opinion on the use of
19 rebar?

20 MR. JUDD: I object to the form. I don't
21 really understand the question.

22 MR. KULLER: Objection.

23 Q. What is rebar used for?

24 MR. JUDD: Do you know what rebar is used
25 for?

1 Isaac Rabinowitz

2 A. Yes.

3 Q. What?

4 A. You put it inside the cement. It's part
5 of the material in the cement.

6 Q. And what was it being used for at this
7 project?

8 A. Same thing.

9 Q. Was any rebar placed or installed with
10 the wall adjacent to 48 North First Street prior to
11 the incident?

12 A. Yes, they did.

13 Q. And who did the installation or
14 placement?

15 A. Orange County.

16 Q. Did you see this? Did you see the work
17 done before the incident?

18 A. Yes.

19 MR. JUDD: I object because I'm not sure
20 if you're asking did he see the work being done
21 or did he see the result of the work.

22 Q. Did you see Orange County installing or
23 placing the rebar prior to the incident?

24 A. I saw that they were working there. They
25 were preparing the forms. They were working there

1 Isaac Rabinowitz

2 and they prepared the rebar and the forms. I saw
3 them preparing it.

4 Q. Did you make any complaints about Orange
5 County's preparation of the rebar prior to the
6 incident?

7 A. No.

8 Q. Did Orange --

9 MR. JUDD: I'm sorry, you're referring to
10 complaints to Orange County or anyone?

11 MR. POLISHOOK: Read back the question.

12 (The record was read by the reporter.)

13 Q. Who ordered the rebar?

14 A. Orange County.

15 Q. Did you make any complaints to Orange
16 County about the rebar that was ordered prior to the
17 incident, either the brand, the dimensions or
18 anything else?

19 MR. JUDD: That's been asked and answered
20 in your previous question.

21 MR. POLISHOOK: It's a little more
22 specific.

23 A. No.

24 Q. Did Orange County complain to you at all
25 about the rebar it ordered, either the type, the

1 Isaac Rabinowitz

2 brand or the specifications prior to the incident?

3 A. No.

4 Q. I didn't ask before, did Orange County
5 make any complaints to you about the forms that they
6 ordered and installed prior to the incident?

7 A. No.

8 Q. Who supplied the actual concrete that was
9 being poured prior to the time of the incident?

10 A. Everything is being ordered by Orange
11 County.

12 Q. Did Orange County determine the brand of
13 the concrete that it ordered?

14 A. Yes.

15 Q. Did Orange County determine the type of
16 concrete it ordered?

17 A. Yes.

18 Q. Did you ever complain to Orange County
19 about the concrete that it ordered and was using at
20 the project prior to the incident?

21 A. No.

22 Q. Did Orange County complain to you at all
23 about the concrete that it ordered and was using at
24 the project prior to the incident?

25 A. No.

1 Isaac Rabinowitz

2 MR. POLISHOOK: We are going to mark the
3 large set of plans that counsel for HSD brought
4 today. Those will be Rabinowitz 7. And then
5 let's mark as Rabinowitz 7A the small set of
6 plans that Mr. Volpe mailed to everyone on
7 Monday. On September 10, he mailed them. He
8 also e-mailed me on September 11.

9 (Rabinowitz Exhibit No. 7, large scale
10 set of plans for project; No. 7A, smaller scale
11 set of plans for project, was received and
12 marked for identification.)

13 MR. POLISHOOK: I am just going to put on
14 the record that we're going to withdraw
15 Exhibit 7A and just focus on Exhibit 7, which
16 counsel for HSD has represented is all of the
17 plans and documents that they sent out, the big
18 copies of what they sent out on a CD on
19 September 10. That's accurate?

20 MR. JUDD: It's my understanding that was
21 what was sent to you.

22 MS. NOREK-HATCH: I just want to
23 represent, for the record, that there are four
24 different sets of plans. The first one starts
25 with a capital A. The second set starts with a

1 Isaac Rabinowitz

2 capital T.

3 MR. POLISHOOK: I am going to do this.
4 There is a set in an A set, with a cover page,
5 architectural set with the name Alan Patrick
6 Bruton, A-triple zero and so forth. Design is
7 DIM. The structural engineer is Steven Kaplan,
8 dated 3/20/06. The last page is A-024.

9 The next set we're looking at also says
10 Architectural, DOB, set of the architect, Aston
11 Architecture, PC. The first drawing is
12 F-001.00, dated 8/3/09, and that goes up to
13 certain notes which have G notes and there are
14 certain Z notes and certain A notes. These are
15 post accident drawings.

16 The next set here is still part of
17 Exhibit 7. They're drawings with a seal from
18 the letterhead of Demerara Engineering, Inc.,
19 dated 3/9/08. They are a set of drawings, S-1
20 through S-15.

21 The last set within Exhibit 7 are Sharon
22 Engineering notes, S-001.001 through S-201.001.
23 These are dated June 12, 2009, also post
24 incident.

25 Q. Without repeating or mischaracterizing

1 Isaac Rabinowitz
2 your testimony, Mr. Rabinowitz, you've testified as
3 to plans that you were shown for this project. I'd
4 ask you to take your time, look through Exhibit 7,
5 and first identify any plans, drawings and
6 specifications that you recall being shown to you at
7 any point.

8 MR. JUDD: Objection to the form. If he
9 can answer, he may.

10 MR. POLISHOOK: I think the witness
11 should take his time to look through this.

12 MR. KULLER: I will give him tabs so he
13 can mark them as he goes through these.

14 MR. POLISHOOK: Off the record.

15 (Discussion held off the record.)

16 MR. JUDD: Mr. Polishook, you have asked
17 the witness to identify any of these records
18 that he recognized, correct?

19 MR. POLISHOOK: It's not a matter -- when
20 you say "recognize," it's not that he recognizes
21 it. It can be a plan that he recalls seeing,
22 any of them, in conjunction with this
23 construction project, that he saw it at any time
24 in conjunction with the project, either before
25 or after the incident.

1 Isaac Rabinowitz

2 MR. JUDD: Okay, if he's ever seen it
3 before.

4 (Witness reviewing plans.)

5 Q. I've just shown you this exhibit. You
6 took a long time to look at Exhibit 7. My question
7 right now is, you've spoken sort of vaguely regarding
8 a plan or plans that Sharon presented to you for
9 concrete pour plans shown to you.

10 Are there any documents within Exhibit 7
11 that Sharon provided to you for the concrete pouring
12 of the wall adjacent to 48 North First Street that he
13 provided to you prior to the incident?

14 MR. JUDD: Objection to form. If he
15 understands that question, he may answer it.

16 MR. POLISHOOK: Do you want to repeat the
17 question to him?

18 A. I can't show you specifically where the
19 details are because I don't read well. But one thing
20 is clear. When I took the company, accepted the
21 company to make a concrete wall, and what works with
22 all of the companies, each subcontractor who has any
23 questions and expectations and details, has to turn
24 to the architect. If it concerns the architect, it's
25 the architect. If it concerns engineering, then it's

1 Isaac Rabinowitz

2 the engineer.

3 Q. Were you present for any in-person
4 communications between Orange County and Sharon prior
5 to the incident?

6 A. I know that I requested from Sharon, I
7 asked Sharon to make a decision as to who is to make
8 the decision. We made the decision together.

9 MR. POLISHOOK: I will move to strike the
10 answer as nonresponsive. You have to
11 respectfully just listen to my question and
12 answer the question. I appreciate your trying
13 to help.

14 Q. Prior to the incident, were you ever
15 present for any in-person communications between
16 Sharon and Orange County?

17 MR. JUDD: Regarding what?

18 MR. POLISHOOK: At all.

19 MR. JUDD: Regarding the construction of
20 this particular wall?

21 MR. POLISHOOK: Just in general.

22 MR. KULLER: That's an appropriate
23 question.

24 MR. POLISHOOK: I think he answered last
25 time. I'm trying to clear it up. Did he answer

1 Isaac Rabinowitz

2 this or not?

3 THE INTERPRETER: No.

4 A. I don't remember.

5 Q. Did you participate in any phone calls in
6 which you were on the line and so were Sharon and
7 Orange County about this project before the incident?

8 A. I know that Orange County told me that if
9 there are questions, whom should they turn to, and I
10 sent them to Sharon.

11 Q. But what I'm asking specifically, were
12 you ever on the phone when Orange County spoke to
13 Sharon? I need to know what you personally
14 witnessed.

15 A. I don't remember.

16 Q. Did anyone from Orange County tell you
17 that they spoke to Sharon prior to the incident about
18 this project?

19 A. I think so.

20 Q. Who from Orange County told you they
21 spoke to Sharon about this project and when? I don't
22 want you to guess as to any of these questions. I am
23 asking very specific questions.

24 A. In Orange County I only spoke with Yoel,
25 with Joel.

1 Isaac Rabinowitz

2 MR. JUDD: I'm sorry, off the record.

3 (Discussion held off the record.)

4 Q. When did Joel tell you that he spoke to
5 Sharon prior to the incident?

6 A. Details I don't remember, but it was
7 during the period that he was working there.

8 MR. JUDD: I just object because I don't
9 think there is a basis for that question. I
10 don't think he said there ever definitely was
11 such a conversation.

12 Q. Do you know the sum and substance of any
13 communications between Sharon and Orange County prior
14 to the incident?

15 A. No.

16 Q. At any time prior to the incident, did
17 Mr. Sharon tell you what drawings or specifications
18 by the prior engineers or architects that he
19 reviewed?

20 A. No, no.

21 MR. KULLER: Please read back that
22 question.

23 (The record was read by the reporter.)

24 Q. I'm going to show you what was marked
25 Rabinowitz 5 from 8/9/12, which is a June 30, 2009

1 Isaac Rabinowitz
2 letter from Ronan Sharon to Brian Y. Winter of the
3 New York City Building Department.

4 Rabinowitz 6 is from 8/9/12, a letter
5 from Ronan Sharon to Simon Dushinsky at Rabsky Group.

6 You can take a look at these two
7 documents. I'm first going to ask about Exhibit 6,
8 actually.

9 Have you ever seen the document that's
10 marked as Rabinowitz 6, or a copy of it, before
11 today?

12 A. I heard of it.

13 Q. When you say you heard of it, again, I
14 don't want to know about any conversations you had
15 with your lawyer here.

16 How or when did you hear of it?

17 A. This was a letter that was written after
18 the accident, where Sharon needed to report it to the
19 Building Department about what happened, about the
20 accident.

21 Q. There are two letters here, Rabinowitz 5,
22 which is written to the Building Department. I'm
23 asking about Exhibit 6, the letter from Sharon to
24 Mr. Dushinsky.

25 Have you seen it or are you aware of that

1 Isaac Rabinowitz

2 letter?

3 A. I heard from Dushinsky.

4 Q. And what did Dushinsky say?

5 A. I don't remember.

6 Q. Did Mr. Dushinsky -- I understand you
7 don't read English. Did Mr. Dushinsky read this
8 letter to you?

9 A. He read it.

10 Q. And did he offer any -- did Simon offer
11 any comments about it to you, like his opinion?

12 A. He didn't continue. There was nothing to
13 answer. Everything stopped.

14 Q. As you sit here today, do you recall what
15 your opinion was when Simon told you about the letter
16 or read it to you?

17 MR. JUDD: I'm sorry, you --

18 MR. POLISHOOK: I will withdraw the
19 question and ask it more artfully.

20 Q. Do you recall if you offered any opinions
21 when Mr. Dushinsky read the letter to you?

22 MR. JUDD: Object to form. Offered
23 opinions to who?

24 MR. POLISHOOK: Did he offer any opinion
25 to Simon when Simon read the letter.

1 Isaac Rabinowitz

2 A. I don't remember.

3 Q. Did you offer any opinions to Mr. Sharon
4 or have any agreement or disagreement after Simon
5 read you the letter?

6 MR. JUDD: Object to the form. If he
7 understands the question, he can answer.

8 A. I don't recall that we answered.

9 Q. I'm just going to read you part of that
10 letter, Paragraphs 3 and 4. It will be easier.

11 MR. KULLER: The translator can read
12 Paragraphs 3 and 4 to the witness. If no one
13 objects, I will read it to the reporter and then
14 she will translate it separately for the
15 witness.

16 MR. JUDD: Wouldn't it be better to just
17 ask him a specific question? Off the record.

18 (Discussion held off the record.)

19 MR. POLISHOOK: I'm going to give
20 Mr. Sharon's September 15, 2009 letter to the
21 reporter. She is going to type in Paragraphs 3
22 and 4, starting at "Close inspection." Then the
23 interpreter is going to interpret it for the
24 witness so I can ask some questions.

25

Isaac Rabinowitz

PARAGRAPH 3: "Close inspection of the collapse, done from inside of #48 indicated that a wall portion of approximately 20 feet long and almost full height at the third floor has consisted of 8 inch brick construction and has buckled under the hydrostatic pressure of the weight of the adjacent concrete pour.

Conversation with the construction super indicated that they were pouring the concrete wall in 2 feet lift, using just a Styrofoam board against the existing brick wall. Since no form was used along the exterior face of the proposed wall, the hydrostatic pressure of the wet concrete was borne directly by the brick wall of the adjacent building. When that pressure exceeded a certain capacity, the brick wall failed and allowed a large amount of wet concrete to flow into the floor of the adjacent apartment."

PARAGRAPH 4: "Standard procedures for pouring concrete walls call for placing forms along both sides of the wall and connecting them with steel ties. Double sided forms are widely available for rental or purchase. Experienced

1 Isaac Rabinowitz
2 contractors use these forms for most typical
3 wall construction. Any atypical pour needs to
4 be brought to the attention of the engineer for
5 review and approval. There is no indication
6 this was ever done. Clearly, the lack of such
7 forms and reliance on an old, thin brick wall as
8 a 'form' caused this accident."

9 Q. After hearing that, do you agree or
10 disagree with Mr. Sharon's opinions, if you have an
11 opinion?

12 A. Sharon is describing what he saw.

13 Q. Do you disagree with any of his
14 conclusions?

15 MR. KULLER: Objection.

16 MR. JUDD: I object also because he is
17 not an engineer.

18 MR. POLISHOOK: I am asking what his lay
19 opinion is, if he has one. If he doesn't have
20 one, he doesn't have one.

21 MR. TOBIN: You may want to lay a
22 foundation, ask what his lay opinion is.

23 Q. Do you have any opinion regarding
24 Mr. Sharon's conclusions, and if so, what is your
25 basis?

1 Isaac Rabinowitz

2 A. What does that matter? He is the
3 engineer and he's the one who knows.

4 Q. Did you disagree with any of his
5 conclusions?

6 MR. JUDD: Objection, again.

7 A. This was the story and this is what
8 happened.

9 Q. After the incident, did you speak to Tim
10 Lynch of the Department of Buildings?

11 A. Regarding -- what is the question?

12 Q. With regard to the accident.

13 A. We spoke that same night to figure out
14 how to support the building, the neighbor's building.

15 Q. Did you offer any opinions to
16 Mr. Lynch about why the incident happened?

17 A. We didn't speak of that.

18 Q. Did you speak to anyone from the City or
19 Department of Buildings about the cause of the
20 incident?

21 A. No.

22 MR. JUDD: Off the record.

23 (Discussion held off the record.)

24 Q. Following the incident, did you speak to
25 Mr. Walters about the incident?

1 Isaac Rabinowitz

2 A. Who is Walters?

3 Q. Oscar Walters from Demerara.

4 A. I called Sharon. Sharon was with me
5 there that same night.

6 Q. What I want to know is, did you speak to
7 Mr. Oscar Walters of Demerara about the incident at
8 any time after the incident?

9 A. I spoke to Gold and Gold spoke to him.

10 Q. But you didn't speak to Walters directly
11 after the incident?

12 A. I didn't.

13 Q. Who from Gold did you speak to?

14 A. The owner, the landlord.

15 Q. Is there a Mr. Gold or someone else from
16 Gold?

17 A. The name is Meyer Leib.

18 MS. NOREK-HATCH: How do you spell that?

19 THE INTERPRETER: M-E-Y-E-R L-E-I-B.

20 Q. Did Mr. Leib tell you about his
21 conversations with Mr. Walters?

22 A. We did speak, but I don't remember about
23 what.

24 Q. Did you overhear Mr. Sharon speak to
25 anyone from the Department of Buildings about the

1 Isaac Rabinowitz

2 cause of the incident?

3 A. He spoke with Tim Lynch.

4 Q. And do you recall what he said? Let me
5 withdraw the question.

6 When you spoke to Sharon, what language
7 did you guys speak, Hebrew?

8 A. I speak with him in Hebrew.

9 Q. When Mr. Sharon spoke to Tim Lynch, did
10 they speak English?

11 A. For sure.

12 Q. Did you understand what they were saying?

13 A. No.

14 Q. At any time since the accident, besides
15 to your lawyer, did you prepare a written statement
16 or incident report about what happened?

17 A. No.

18 Q. Besides being called by your lawyer, did
19 anyone ever call you on the phone or come visit you
20 and ask you orally what happened?

21 A. No.

22 Q. Have you ever given a deposition, not in
23 this case but in any other case, regarding this
24 incident?

25 A. Thank God, no.

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Isaac Rabinowitz

Q. Was there a control inspector that was retained to perform services on the site prior to the accident?

A. I don't remember.

Q. Have you ever heard of an company Impact, which performs control services, control inspections, I mean?

A. There was such a thing.

Q. Did Impact perform services at this project?

A. He gave us, yes.

Q. Who retained Impact?

A. He was the previous contractor.

Q. Did you ever see any contract between Impact and the prior contractor?

A. No.

Q. Let's cut to the chase. Are you aware whether Impact performed any controlled inspections in conjunction with the pouring of concrete on this project?

A. I don't remember.

Q. Do you have any documents in your file from Impact?

A. No.

1 Isaac Rabinowitz

2 Q. Are you aware of any oral or written
3 communications between Sharon and Impact prior to the
4 incident?

5 A. I don't remember.

6 Q. Did you ever see any documents prepared
7 by Mr. Walters or anyone from Demerara following the
8 incident about the incident?

9 MR. JUDD: Let her finish translating.

10 A. No.

11 Q. Did you personally witness, either in
12 person or on the phone, Sharon provide any
13 instructions to Orange County?

14 A. You've asked that question before.

15 Q. It's a little different.

16 MR. KULLER: He said, I believe --

17 MR. POLISHOOK: I don't want to hear what
18 you think he said.

19 MR. JUDD: As to how to pour the
20 concrete?

21 MR. POLISHOOK: Yes. Let me withdraw the
22 question. I will say it again.

23 Q. Did you personally witness, either on the
24 telephone or in person, Sharon provide any
25 instructions to Orange County in conjunction with the

1 Isaac Rabinowitz

2 concrete pouring?

3 MR. JUDD: Prior to the incident.

4 A. What I understand is that he showed a
5 previous letter. You showed us a letter and the
6 plans. I gave Orange County Sharon's plans.

7 MR. POLISHOOK: Ask him to use proper
8 names.

9 A. I gave Orange County -- I instructed
10 Orange County to work with Sharon's plans. Any
11 question he had, he had to refer to Sharon. If
12 Orange County had any questions, these must be the
13 answers that Sharon gave to Orange County as a
14 response to their query.

15 Q. You're referring to Rabinowitz 3?

16 A. Yes. This is what that is, my
17 understanding.

18 Q. A couple questions. I'm going to move to
19 strike the portion that is not responsive. Let me
20 clear something up.

21 I want to know not what you think should
22 have happened, but I want to know what you personally
23 witnessed, without guessing.

24 MS. NOREK-HATCH: I am going to object to
25 the recharacterization. It didn't sound like

1 Isaac Rabinowitz

2 this witness was guessing. It sounded like he
3 was saying what he recollected. To that extent,
4 I have an objection to you mischaracterizing his
5 testimony.

6 MR. POLISHOOK: I'm not trying to
7 mischaracterize. Let me ask the question
8 instead of characterizing his testimony.

9 MR. JUDD: I agree with that.

10 Q. Did you personally, either in person or
11 orally, hear Sharon provide any instructions, orally,
12 to Orange County regarding the concrete pouring
13 process?

14 A. One thing is certain, that there was a
15 plan to pour concrete. I was not present at each and
16 every discussion. I have no idea what letters were
17 given and what weren't.

18 Q. I'm not asking about letters. I'm asking
19 specifically this question: Did you ever either hear
20 on the telephone or did you in person orally hear
21 with your ears Sharon provide any instructions to
22 Orange County regarding the concrete pouring process
23 prior to the incident?

24 A. No.

25 Q. Going to Rabinowitz 3, if you can look at

1 Isaac Rabinowitz
2 the two-page document. You testified before that
3 Sharon prepared some type of plan prior to the
4 incident. Are you talking about this plan,
5 Rabinowitz 3?

6 A. I said I didn't request this letter. You
7 asked me whether I understood its contents and I
8 explained.

9 Q. What I'm asking -- you testified for two
10 days here. Please indulge me and answer the
11 question.

12 You keep referring to that there was a
13 plan. When you say there was a plan, are you talking
14 about the second page of Rabinowitz 3? Is that the
15 piece of paper, the plan you're talking about?

16 A. When I talk about the plans, it's what
17 you showed me.

18 MR. JUDD: He is asking you specifically
19 about this second page of Exhibit Number 3.

20 Q. Is that the plan you're talking about
21 that Sharon provided?

22 MR. JUDD: If you know.

23 MR. POLISHOOK: Everything is if he
24 knows.

25 A. I say again. The letter comes from

1 Isaac Rabinowitz

2 Sharon. I'm repeating again and again. This letter
3 came from Sharon. I did not order it. I did not ask
4 for it.

5 Q. I understand and I appreciate that. What
6 I'm asking, you have testified that Sharon provided
7 some type of plan prior to the incident. Is that
8 plan that you're talking about this, the second page
9 of Rabinowitz 3?

10 MS. NOREK-HATCH: Or is this part of the
11 plan. He said part of the plans. Is it these
12 plans?

13 MR. JUDD: Or something else.

14 MS. NOREK-HATCH: The question is, was it
15 this part of the plan. You keep asking is this
16 the plan.

17 MR. POLISHOOK: I am saying "plan." He
18 testified when he was shown Exhibit 7 that it
19 wasn't it. I'm suspecting what this is -- let
20 me withdraw the question. I will ask a better
21 question.

22 Q. Besides Exhibit 3 and Exhibit 7 --

23 MR. JUDD: Which is all of these plans
24 that you looked at earlier.

25 MR. POLISHOOK: I'm going to withdraw the

1 Isaac Rabinowitz

2 question. I'm going to finish my other
3 questions. I think he answered this. I just
4 have a few more.

5 MR. JUDD: Off the record.

6 (Discussion held off the record.)

7 Q. After the incident, did you ever ask
8 Orange County why they didn't use the forms that they
9 had built for the wall adjacent to 48 North First
10 Street?

11 MR. KULLER: Objection.

12 A. We spoke of the accident. We discussed
13 why it occurred, and from that day to the present
14 time, we had no conversation.

15 Q. Did you ever ask him -- withdrawn.

16 You testified the first day that you
17 didn't see forms in the area where the incident
18 occurred after the incident. So I'm asking --

19 A. I said even today.

20 Q. I'm asking, did you ask Orange County why
21 you didn't find forms in the area where the incident
22 occurred after the incident?

23 MR. KULLER: Objection.

24 MR. JUDD: I object. I believe at his
25 prior deposition he said that he did see a form

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Isaac Rabinowitz

on the inner part of the wall. He did not see one on the exterior portion of the building.

MR. POLISHOOK: Let me rephrase that.

Q. After the incident, did you ask anyone from Orange County why you didn't see a form on the exterior of the wall adjacent to 48 North First Street?

MR. KULLER: Objection.

A. There was no need or reason to get into this conversation or argument because Orange County knew that they made a mistake, that it was their fault that the accident occurred, so we didn't have to.

MR. POLISHOOK: I don't have any further questions. I will follow up with counsel to the extent any drawings, specifications and plans that Mr. Rabinowitz referred to from Sharon haven't been produced prior to this litigation, that they be produced at a later date, if they exist. We would be entitled to an additional deposition if anything else is produced.

Otherwise, I have no further questions. Besides any followup after other counsel, I'm done with my questions. Thank you very much.

1 Isaac Rabinowitz

2 MR. JUDD: We, of course, object to
3 producing him for yet another day. We've
4 responded to your discovery demands. If you
5 have further discovery demands, please put them
6 in writing and we will take it under advisement.

7 (Luncheon recess taken from 1:15 p.m. to
8 2:00 p.m.)

9 EXAMINATION BY MR. KULLER:

10 Q. Good afternoon, Mr. Rabinowitz. My name
11 is Brett Kuller. I'm an attorney with the law firm
12 Abrams, Garfinkel, Margolis, Bergson. We represent
13 the defendant, Orange County Superior Concrete, in
14 this case.

15 There was testimony previously regarding
16 the Styrofoam that you observed in between the wall
17 being poured at 50 North First Street and the
18 adjacent wall at 48 North First Street. Do you know
19 if anyone gave Orange County instructions to use that
20 Styrofoam?

21 MR. POLISHOOK: Objection to form.

22 MR. JUDD: I object also insofar as I
23 don't believe he specified where he -- that he
24 saw the Styrofoam in that exact location.

25 MR. KULLER: Withdrawn.

1 Isaac Rabinowitz

2 Q. Did you see Styrofoam on the third floor
3 in the wall where the accident had taken place,
4 Mr. Rabinowitz?

5 MR. JUDD: Object to form.

6 A. I did, after the accident.

7 Q. And do you know whether anyone instructed
8 Orange County to use that Styrofoam?

9 MR. POLISHOOK: Objection to form.

10 A. I didn't.

11 Q. Do you know if anybody else did?

12 A. I don't know.

13 Q. Does HSD Construction or the Rabsky Group
14 have a file in its office that pertains to the
15 construction project at 50 North First Street?

16 A. There were some paperwork but not a lot
17 because there was not much work done there. There
18 wasn't a lot of work.

19 Q. What was contained within the file?

20 A. There was the contract between us and
21 Orange County. There should have been the contract
22 between me and Gold. He was one of the first. There
23 was not much work ongoing. I came in in the middle.
24 All the work was done by someone else.

25 Q. Do you know who the first general

1 Isaac Rabinowitz

2 contractor -- well, withdrawn.

3 Do you know who the general contractor
4 was for the construction project before HSD?

5 A. I know his name but not the company's
6 name.

7 MR. JUDD: I think that was asked and
8 answered at the last deposition.

9 Q. What was the individual's name?

10 A. Turner.

11 Q. Would that be T-Y-R-A-N?

12 A. I said Tyrnauer.

13 Q. What about the company WTC Construction,
14 Inc.?

15 A. It's possible. I don't know.

16 Q. Do you know who the prior owner was for
17 the construction?

18 A. I did the agreement with the owners. The
19 owners contracted with the first one and I came in in
20 the middle.

21 MR. JUDD: He asked you do you know who
22 the prior owner was.

23 A. I don't know.

24 Q. What was the last day that HSD served as
25 the general contractor for the construction project?

1 Isaac Rabinowitz

2 MR. JUDD: After or before the incident?

3 MR. KULLER: I just want to know what the
4 last day was that they were serving as the
5 general contractor for the construction project.

6 A. We didn't work very much longer. After
7 the accident, we didn't work at all, but it took much
8 longer for our name to get off as the contractor.

9 Q. So HSD didn't perform any services at the
10 construction site after June 2, 2009?

11 A. Yes.

12 Q. And when you say it took more time for
13 your name to get off, are you talking about at the
14 Department of Buildings with respect to permits?

15 A. From the Building Department, yes.

16 Q. Do you know around what time that HSD was
17 removed from the permits or the records at the
18 Department of Buildings?

19 A. I didn't do a renewal, so I -- seemingly,
20 it would have been the date when it expired.

21 Q. Do you have a copy of the permit, the
22 original permit that HSD took out? The question
23 is -- you've got to let me finish.

24 Does Mr. Rabinowitz have a copy of the
25 original permit that HSD took out for this

1 Isaac Rabinowitz

2 construction project?

3 A. You could look at it online.

4 Q. Where online?

5 A. Department of Buildings site.

6 Q. Are you aware of any entity presently
7 that would have construction records checked out from
8 the Department of Buildings right now?

9 MR. JUDD: Objection to form. If you
10 understand that question, then you can answer
11 it.

12 THE INTERPRETER: I cannot translate
13 that. I didn't understand.

14 Q. Are you aware of any entity that right
15 now has the DOB records for this construction project
16 checked out?

17 MR. JUDD: Objection to the form. Go
18 ahead.

19 THE INTERPRETER: I need to hear the
20 question again.

21 (The record was read by the reporter.)

22 A. No.

23 MR. JUDD: If you don't understand the
24 question, please indicate that, whenever you
25 don't understand.

1 Isaac Rabinowitz

2 THE WITNESS: Okay.

3 Q. Regarding the job file, other than the
4 contract with Orange County and the contract with
5 Gold Development & Management, what else, if
6 anything, is contained within that file?

7 A. I don't remember.

8 MR. JUDD: Just object to the form.

9 Q. Would there be applications for payment?

10 A. Possibly. I don't know.

11 Q. How was HSD paid for the work that it
12 performed at the construction project?

13 A. I didn't get any.

14 Q. You didn't receive any money for the
15 services that HSD rendered at the construction
16 project?

17 A. No.

18 MR. JUDD: Objection.

19 A. I am still waiting.

20 MR. JUDD: That was his testimony in his
21 last deposition as well.

22 Q. Do you know why it is that Gold
23 Development & Management has not paid HSD any money
24 for this construction project?

25 A. Because the bank did a foreclosure and

1 Isaac Rabinowitz

2 sold the building and he found himself outside.

3 Q. Mr. Rabinowitz, I'm just showing you what
4 was marked today as Rabinowitz 3. With respect to
5 the second page, I would just like to ask you if you
6 requested Mr. Sharon to draft that document.

7 MR. POLISHOOK: Objection. Asked and
8 answered. You can answer.

9 MR. JUDD: Same objection.

10 MS. NOREK-HATCH: It's not an appropriate
11 objection. Another party can ask the same
12 questions.

13 A. I said before that this document is
14 probably questions that he had regarding the project,
15 questions he had for Orange County.

16 Q. The questions that who had for Orange
17 County?

18 A. Questions that Orange County had for
19 Sharon.

20 Q. Did Orange County request that you obtain
21 something in writing from Mr. Sharon?

22 A. No. He spoke directly to Sharon alone.

23 Q. Orange County spoke directly to Sharon?

24 MR. POLISHOOK: Objection to form.

25 A. I can't answer that accurately because

1 Isaac Rabinowitz

2 that is to the best of my understanding.

3 Q. You see on the first page, correct, that
4 this document was faxed from Mr. Sharon to the Rabsky
5 Group. Correct?

6 MR. JUDD: Object to form. You can
7 answer.

8 A. Yes.

9 Q. So do you know whether anybody at the
10 Rabsky Group requested Mr. Sharon to provide them
11 with this document?

12 MR. POLISHOOK: Object to form.

13 A. That does not prove anything, that we
14 have anything do with it. Sharon had this kind of
15 paper and he faxed it to us.

16 Q. Do you know why it is that that document
17 was faxed to the Rabsky Group?

18 MR. POLISHOOK: Objection to form.

19 A. No.

20 Q. Do you know if this document was provided
21 to Orange County?

22 MR. POLISHOOK: Object to form.

23 A. I don't know.

24 Q. Have you ever seen that document prior to
25 today?

1 Isaac Rabinowitz

2 A. I heard about it before we came here for
3 the first time.

4 MR. JUDD: Do you mean other than when he
5 was shown this on August 9th of this year?

6 MR. POLISHOOK: I did show it to him.
7 Rephrase that.

8 Q. Did you ever see this two-page
9 document -- actually, withdrawn.
10 Did you ever see the second page of this
11 document prior to August 9, 2012?

12 MR. POLISHOOK: You mean Rabinowitz 3?

13 A. No.

14 Q. Do you know if anyone provided this
15 document to Orange County Superior Concrete?

16 MR. POLISHOOK: Objection to form.

17 A. No.

18 Q. Am I correct that the only individual
19 that you ever dealt with at Orange County Superior
20 Concrete is Joel Falkowitz?

21 A. Yes.

22 Q. Can you just tell me what the
23 circumstances were under which you first met Joel
24 Falkowitz?

25 A. He came to ask us to start working with

1 Isaac Rabinowitz

2 our company and this was the first building I gave
3 him and I hope it will be the last.

4 Q. Did you meet with Joel Falkowitz at
5 50 North First Street prior to the time that Orange
6 County commenced working at the construction project?

7 A. Yes.

8 Q. The first time that you met with Joel
9 Falkowitz at 50 North First Street, what did you
10 discuss with him?

11 A. About the work, what needs to be done,
12 and that's it.

13 Q. Did you talk about any details as to how
14 Orange County would perform its work?

15 A. No.

16 Q. Did you give any instructions to Orange
17 County as to how Orange County should perform its
18 work?

19 A. No.

20 Q. Did you believe that form was going to be
21 used on the third floor, on the wall, on the adjacent
22 wall where this accident took place?

23 MR. JUDD: Object to form.

24 A. They were going to use foam. He did that
25 on his own, at his own discretion.

1 Isaac Rabinowitz

2 Q. Orange County made the decision on its
3 own to not use form on the third floor of the
4 building where the accident occurred?

5 MR. JUDD: Object to form.

6 A. I didn't explain to him or get into any
7 detail of how to do it. He did that on his own
8 discretion. That's not part of my expertise or what
9 I need to know about.

10 MR. KULLER: Off the record.

11 (Discussion held off the record.)

12 MS. NOREK-HATCH: Would you read the
13 answer.

14 (The record was read by the reporter.)

15 Q. So you didn't give Orange County any
16 direction whatsoever about how to accomplish his
17 work?

18 A. Right.

19 MR. JUDD: Asked and answered.

20 Q. How many times did you meet with Joel at
21 50 North First Street before Orange County commenced
22 its work?

23 A. Two, three times.

24 Q. What did you discuss with Joel?

25 A. Money.

1 Isaac Rabinowitz

2 Q. Is there anything you discussed with
3 Joel, other than money?

4 A. No.

5 Q. About how long did it take Orange County
6 Superior Concrete to complete the pouring of the
7 vertical wall on the first floor at the wall adjacent
8 to 48 North First Street?

9 MR. JUDD: Object to form. He can
10 answer.

11 A. He did first the first, then the second,
12 and it took a few days. The accident occurred on the
13 third floor.

14 Q. How long before the accident were the
15 first and second walls completed?

16 A. Several days.

17 Q. After the wall -- when I'm talking about
18 the wall, I'm talking about the walls adjacent to
19 48 North First Street. I'm speaking specifically
20 about those walls and that's it.

21 A. I understand.

22 Q. After the wall on the first floor was
23 complete, did you view the wall?

24 A. Yes.

25 Q. Were you satisfied with the work on the

1 Isaac Rabinowitz

2 first floor?

3 A. It looked all right, but I couldn't see
4 clearly because he immediately started working on the
5 second one, so it wasn't complete to be able to say
6 how well I liked it, but I was satisfied with what I
7 saw. The forms were closed.

8 Q. Did you know that there had not been a
9 form used on the first floor with respect to that
10 wall?

11 MR. POLISHOOK: Object to form.

12 MR. JUDD: Objection to the form.

13 MR. POLISHOOK: Could we go off the
14 record for a second?

15 (Discussion held off the record.)

16 MR. POLISHOOK: I might have missed
17 something. My objection is to foundation. I'm
18 not sure whether he testified yet to whether he
19 witnessed the form or lack thereof for the first
20 or second floor. I might have missed it. I
21 think foundation should be set before you ask
22 and he answers the question. That's the ground
23 for my objection.

24 Q. Why don't you explain to me,
25 Mr. Rabinowitz, please, what construction work you

1 Isaac Rabinowitz

2 did observe Orange County performing on the first
3 floor.

4 A. What he needed to do was to make the wall
5 between where the accident occurred -- he needed to
6 maybe in the elevator do the walls and floors. He
7 put concrete on the floor, one or two floors, I don't
8 remember, but in the elevator he also made one or two
9 floors. There he opened the forms. I saw his work.

10 Q. I just want to know specifically what
11 work you observed on the first floor with respect to
12 the walls.

13 A. What am I supposed to see? I saw
14 concrete, I saw a closed wall.

15 MR. JUDD: So before the accident, did
16 you observe the wall on the first and second
17 floor?

18 THE WITNESS: The first one I did, but
19 the second, I'm not sure. It was still closed
20 with wood.

21 Q. When you say it was closed on the second
22 floor, do you mean that the form on the outside of
23 the wall was still up?

24 MR. POLISHOOK: Object to form.

25 A. Yes, that was covering the cement. The

1 Isaac Rabinowitz

2 form concealed the concrete.

3 MS. NOREK-HATCH: Could you please
4 clarify what he meant by outside, the 48 North
5 First Street side or inside of the building?

6 MR. KULLER: Every time I'm talking about
7 walls, I'm talking about -- ^

8 MS. NOREK-HATCH: You asked about the
9 form being on the outside of the wall. My
10 question is, what do you mean by outside? Are
11 you talking about the inside of the building or
12 the side of the wall that's between their
13 building and the building adjacent to it?

14 MR. KULLER: The form that he could
15 observe by looking at the wall.

16 MS. NOREK-HATCH: I imagine that's inside
17 the building. You called it outside.

18 A. The wall that you're asking about is the
19 wall that is separating our building with the
20 neighbor's building?

21 Q. Yes. And I just wanted to know what you,
22 Mr. Rabinowitz, observed.

23 A. Whatever I said. Some was concealed by
24 form.

25 Q. Was anyone on behalf of HSD inspecting

1 Isaac Rabinowitz

2 Orange County's work?

3 MR. POLISHOOK: Object to form.

4 MR. JUDD: Object also.

5 A. Before the pouring of the concrete?

6 Q. At any time that Orange County performed
7 work.

8 MR. JUDD: Prior to the accident?

9 MR. KULLER: Of course, prior to the
10 accident.

11 A. No.

12 Q. The answer is no?

13 A. The answer is no.

14 Q. What is your understanding of what a
15 controlled inspection is?

16 A. Where somebody comes to inspect.

17 Q. And is it your understanding that a
18 controlled inspector would be a professional,
19 meaning, an architect or engineer?

20 A. Yes.

21 Q. Is it also your understanding that with
22 respect to this construction project, there should
23 have been controlled inspections taking place?

24 MR. POLISHOOK: Objection. Calls for
25 legal conclusion.

1 Isaac Rabinowitz

2 Q. Yes or no?

3 A. It's not binding. It's not an
4 obligation.

5 Q. Is it your understanding that in June of
6 2009, at this construction project, there was no
7 requirement that there be a controlled inspector on
8 record?

9 MR. POLISHOOK: Object to form.

10 MR. JUDD: Objection to form.

11 MR. POLISHOOK: We need to know
12 everything that's said. He can't explain
13 something to you that's not translated. I
14 understand you're trying to help. Everything he
15 says you have to translate.

16 THE INTERPRETER: You have to give me a
17 chance.

18 MR. POLISHOOK: Repeat the question.

19 (The record was read by the reporter.)

20 THE INTERPRETER: I can translate the
21 first part of the answer. Now he is telling me
22 to say -- I don't know. He said something
23 before. This specific question that you asked,
24 I don't know, but what he said before was that
25 in building, in construction of buildings, the

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Isaac Rabinowitz

several obligations are dependent upon which way
the building is going to be built.

Q. With respect to this specific
construction project, is it your understanding that
in June of 2009 there had to be a controlled
inspector on record?

MR. POLISHOOK: Objection. Calls for
legal conclusion, regardless.

MR. JUDD: Same objection.

Q. You can answer.

MR. JUDD: If you can.

A. I don't know.

Q. Do you have any understanding with
respect to the pouring of concrete walls at the
construction project when, if at all, a controlled
inspection should have taken place?

MR. JUDD: I need to hear that again.
(The record was read by the reporter.)

MR. JUDD: Object to the form.

A. I don't know.

Q. Do you have any understanding as to
whether there should have been any inspection of the
pouring of the concrete walls at 50 North First
Street?

1 Isaac Rabinowitz

2 MR. POLISHOOK: Objection.

3 MR. JUDD: Objection to form.

4 Q. Any type of inspection.

5 A. About what? The concrete, other things?

6 MR. JUDD: He said anything.

7 Q. Just about the concrete walls, pouring of
8 the concrete walls.

9 A. I don't remember. That's the problem. I
10 don't remember.

11 Q. I'm just asking whether or not there
12 should have been any inspection of the pouring of the
13 concrete walls.

14 MR. POLISHOOK: I am just going to object
15 to form.

16 MR. JUDD: I object as well. It does
17 call for a legal conclusion.

18 A. Nobody came to check or inspect how to
19 pour the cement, but they inspected the rebar to see
20 if the steel rebar is the same as the plan shows.

21 Q. Who made that inspection?

22 A. I don't remember.

23 MR. JUDD: He said somebody came and
24 inspected the rebar.

25 MR. KULLER: Read that back.